

20021202

Dear Sirs:

This comment is in regards to the Notice of Proposed Rulemaking (FCC 02-231) in the Matter of Digital Broadcast Copy Protection now before the FCC, the text of which can be found in Portable Document Format (PDF) at <http://bpdg.blogs.eff.org/archives/nprm.pdf>

Note that the mandate of broadcast-flag recognition in consumer electronics devices (as mentioned in Section II, part 6) would impose onerous restrictions on every personal computer user and especially on the developers of software which can extend the capabilities of personal computers. That's because computers -- unlike single-purpose electronic devices like VCRs -- can achieve new efficiencies, and be given unforeseen capabilities, because of their flexible design. Any mandated software or hardware not transparent to device designers and programmers will hamper their ability to design and use computers to their full potential.

Apart from the other jobs which a computer can do, a modern PC can be a "media center," "media hub," "multi-media station" or whatever you choose to call a device which is not limited to a single pre-planned purpose and which can be used to access data in various formats, from text to moving images, even to the communication of remotely transmitted touch.

On a daily basis, I use both Apple's Mac OS X operating system and variants of the GNU/Linux operating system commonly known simply as Linux. Currently I can watch films on DVD or CD (note, these are films I have purchased -- I have never downloaded illegally copied movies), edit home movies, and listen to music in various file formats. With a small investment in additional hardware, I could also use my current computers to store television programs for later viewing, in the same way that I could do so with a VCR, only less wasteful (of both natural and space resources) and without buying new equipment.

Anyone at the FCC who has ever used a VCR to record a television show to archive and re-watch an important show (or simply to watch the 6 o'clock news after a 6 o'clock commute) should recognize the utility of time-shifting and video archiving, and the caution which should consequently be used in restricting this utility.

That time-shifting of television broadcasts has been around (for ordinary viewers) for more than 20 years should have given the broadcast industry (which fought against VCRs with fervor) plenty of notice that particular advertising and distribution methods might not last forever.

There's no reason to think that the ability to time-shift and record television programming will increase the usefulness of home electronics or raise the quality of broadcast programming, and the particular technologies used to transmit the content have little to do with it. If it were otherwise, hardware makers would simply include the broadcast-flag features in new hardware with no heed to legislation, and advertise them to customers as benefits. That they are instead liabilities which would reduce the value of each user's investment in his own equipment is made clear by the current lobbying efforts, and even by the fact that the question has been raised in the first place of whether such controls should be mandated. Forcing the inclusion of such misfeatures in general-purpose PCs would in fact be a big step toward outlawing open source software (such as carries most Internet traffic, among other things), whether or

not that is an intended effect. There simply is no way to ignore the role of general-purpose devices in examining the possible effects of such a mandate.

If broadcasters wish to cripple their own programs with broadcast flags, that is their business -- but the FCC should not be a patsy for their lobby simply because it was asked.

Timothy Lord

(Note: email and mailing addresses provided separately in comment ubmission form)